

Subchapter Three: Drug and Gang Nuisance Abatement

2.03.010 Definitions.

(a) *Drug or Drugs.* As used herein Drug or Drugs shall mean one or more controlled substances, including precursors and analogs defined in California Health & Safety Code Section 11007.

(b) *Gang.* As used herein Gang shall mean any ongoing organization, association or group of three (3) or more persons, whether formal or informal, which has a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of illegal conduct.

(c) *Illegal Conduct.* As used herein Illegal Conduct shall mean a misdemeanor or felony as defined by state or federal law.

[History: formerly § 2.701; ORD. 638, 12/14/05]

2.03.020 Public Nuisances to be Abated.

(a) Any building or place used for the purpose of illegal conduct by a gang or gangs or gang members, or wherein or upon which illegal conduct takes place, or as defined in California Health & Safety Code Section 11570 may be commenced as set out herein.

[History: formerly § 2.702; ORD. 638, 12/14/05]

2.03.030 Identification of Nuisance.

(a) The Police Department may identify a building or place which is a nuisance as defined in this chapter by documenting a pattern of continuing and repeated drug or illegal conduct in or at such building or place.

[History: formerly § 2.703; ORD. 638, 12/14/05]

2.03.040 Notification of Nuisance.

(a) Where it has been determined that a nuisance exists as defined herein, notice of the existence of such nuisance and request for immediate abatement thereof shall be given to the owner, occupant, manager, or agent for the property or any other person interested in the property or who has requested such notice.

(b) The first notice shall be by letter, which shall state the location of the nuisance, the type of illegal conduct or drug activity, and the requested manner of abatement. The letter shall give thirty (30) calendar days in which to commence voluntary abatement of the nuisance in the manner requested. Abatement may include but is not limited to eviction of tenant(s) creating the nuisance or closure of the building or place.

(c) Within that thirty (30) day period, the owner of any property so identified may request in writing that the Police Department proceed with abatement against the property as set out in this chapter and under state law. As a condition to abatement, the Police Department and the City may enter into an agreement with the owner or agent to assist in such proceedings or to bring the building or place into compliance with applicable state, federal and local building codes and regulations.

(d) At the end of the thirty (30) day period, it shall be determined whether or not the nuisance is being or has been abated. If it is found that such nuisance continues to exist, the owner, occupant, manager or agent and any other interested person or person requesting notice shall be served with a second notice. The second notice shall state that the nuisance continues to exist, its location, type and manner of abatement and that the abatement must commence within five (5) working days or the matter will be referred to the City Attorney for civil action.

(e) The notices required by this section shall be served by personal delivery or by mailing, first class, postage prepaid, return receipt requested, to the owner at his last known mailing address as it appears on the last equalized assessment roll of the County, and to the occupant, manager or agent at the address of the building or place or any other known address, or by posting on the property. The failure of any person entitled to receive such notice shall not affect the validity of any proceedings under this ordinance.

(f) Upon receipt of a response from the person served, the Police Department and the City may agree in writing to extend the time to commence, perform or complete abatement and may condition such extension on the performance of actions by the owner, occupant, manager, or agent, including but not limited to bringing the building into compliance with any and all applicable local, state and federal building codes and regulations.

[History: formerly § 2.704; ORD. 638, 12/14/05]

2.03.050 Commencement of Civil Action.

(a) The City Attorney, with the concurrence of the City Manager, is hereby authorized to file a civil action pursuant to California Health & Safety Code Section 11570 *et. seq.* to have the court determine whether any property within the Town constitutes a nuisance within the meaning of Section 11570.

(b) The City Manager, in his or her discretion, may send one or more warning letters to each owner and resident of the premises prior to filing the civil lawsuit, demanding that the activities constituting the nuisance cease immediately. A warning letter need not be sent when, in the judgment of the City Manager, to do so would be futile.

(c) The City Manager may delegate the responsibilities placed upon them by this ordinance by such subordinate officers and employees as he or she, in his/her sole discretion deems appropriate.

[*History:* formerly § 2.705; ORD. 638, 12/14/05]

Subchapter Four: Firearms, Alcohol, Curfews

2.04.010 Discharge of Firearms Prohibited.

(a) Except as provided in subdivisions (b), (c), (d), (e), or (f), it shall be unlawful for any person to discharge a firearm within the city limits of the Town of Colma.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2 of the California Penal Code, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in Colma, or any person summoned by any such officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting such officer.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a Firearms Qualification Card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) The discharge of weapons by animal control officers or zoo keepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the California Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(2) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code who are carrying out official duties while in the Town of Colma.

(3) Peace Officers listed in Section 830.1 or 830.2 of the California Penal Code engaged in duly authorized use of the Town of Colma Police Department's Pistol Range.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033 of the California Penal Code. Such certificate shall not be required of any person who is a peace officer who has completed all training required by law for the

exercise of his or her power as a peace officer, and who is employed while not on duty as such peace officer:

- (1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other things of value within the Town of Colma and in the course and scope of that employment.
 - (2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority in the course and scope of that employment (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the California Department of Consumer Affairs.
 - (3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment.
 - (4) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers.
 - (5) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the California Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private investigators.
- (e) Nothing in this section is intended to preclude the discharge of any firearm legally carried or held under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the discharge of such weapon is necessary for the preservation of such person or property. As used in this subdivision "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.
- (f) Nothing in this section shall prevent any person from discharging a weapon, if such discharge is reasonably necessary in the course of making a lawful arrest.
- (g) Every person convicted under this section shall be guilty of a misdemeanor and is subject to punishment by imprisonment in the county jail for a period not exceeding six months, or by a fine not exceeding One Thousand Dollars (\$1,000), or both.

[*History.* formerly § 2.501; ORD. 333, 06/11/86; ORD. 638, 12/14/05]

2.04.020 Restrictions on Consumption of Alcoholic Beverages.

(a) *Purpose and Intent.* The purpose and intent of this section 2.04.020 is to restrict the consumption of alcoholic beverages in public places, parking lots, and motor vehicles within the Town of Colma. This section shall not be deemed to make punishable any act or acts which are prohibited by any statute of the State of California.

(b) *Definitions.* As used in this section "alcoholic beverages" includes alcohol, spirits, liquor, wine, or beer which contains one-half of one percent or more of alcohol by volume and which is fit for human consumption purposes either alone or when diluted, mixed or combined with other substances.

(c) *Possession in Public Places.* It is unlawful for any person to possess any alcoholic beverage in any public place, or transport any alcoholic beverage upon any public street, sidewalk, pedestrian mall, public school ground, alleyway, or thoroughfare if such alcoholic beverage is in a receptacle which has been opened, or the seal of which has been broken, or the contents of which have been partially removed.

(d) *Possession in Parking Lots.* It is unlawful for any person to possess any alcoholic beverage in any private or public parking lot within the Town of Colma where such parking lot has immediate access to a public street if such alcoholic beverage is in a receptacle which has been opened, or the seal of which has been broken, or the contents of which have been partially removed.

(e) *Exemption.* The provisions of this section shall not apply to the consumption, drinking, exhibition, or possession of an open container of alcoholic beverages at a city approved function.

(f) *Violation.* Any person violating any of the provisions of this subchapter shall be guilty of a misdemeanor, which shall be punishable as set forth in section 1.05.010 et seq.

[History: formerly § 2.502; ORD. 418, 8/18/90; ORD. 638, 12/14/05, ORD. 643, 4/12/06]

2.04.030 Curfew for Minors.

(a) *Curfew for Minors.* It is unlawful for any minor person under the age of eighteen years to loiter in, upon or about the public streets, avenues, alleys, parks, buildings or other public places, between the hours of ten p.m. and sunrise the following morning. However, the provisions of this section shall not apply in the following circumstances: (a) when the minor is accompanied by his or her parents, guardian or other adult having the legal care, custody or control of the minor; (b) when the minor is upon an emergency errand directed by his or her parent, guardian or other adult person having the care and custody of the minor; (c) when the minor is going directly to or returning directly from a place of work, or worship, or a meeting, dance, recreational activity or other event organized or sponsored by a school or community group; or (d) when the minor is going directly to or returning directly from a private residence at which the minor is or was an invitee.

(b) *Responsibility of Parent.* It is unlawful for the parent, guardian or other person having the legal care, custody or control of any minor under the age of eighteen years to allow or permit such minor to violate any provision of this chapter.

(c) *Encouragement to Violate Prohibited.* It is unlawful for any person to assist, aid, abet, or encourage any minor under the age of eighteen years to violate any provision of this chapter.

(d) *Violation.* Any person violating any of the provisions of this subchapter shall be guilty of a misdemeanor, which shall be punishable as set forth in section 1.05.010 et seq.

[*History:* formerly 2.503; ORD. 417, 8/08/90; ORD. 638, 12/14/05, ORD. 643, 4/12/06]